

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
In the Matter of)	File Number: EB-07-NY-050
)	
Craig Watkins)	NAL/Acct. No: 200732380012
)	
Bronx, NY)	FRN: 0014159255

FORFEITURE ORDER

Adopted: March 10, 2008

Released: March 12, 2008

By the Acting Regional Director, Northeast Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Forfeiture Order (“*Order*”), we issue a monetary forfeiture in the amount of seventeen thousand dollars (\$17,000) to Craig Watkins (“Watkins”) for willfully and repeatedly violating Section 301 of the Communications Act of 1934, as amended (“Act”), by operating an unlicensed radio transmitter on the frequency 106.3 MHz in Bronx, NY and willfully violating 303(n) of the Act by refusing an inspection of the station.¹

II. BACKGROUND

2. On March 7, 2007, the FCC New York Office received a complaint from an engineer representing FM station WFAF, which operates on 106.3 MHz in Mt. Kisco, NY. The engineer reported that an illegal broadcast station operating on 106.3 MHz in Bronx, NY was causing interference to WFAF.

3. On March 10, 2007, a Commission agent, using a mobile direction finding vehicle, monitored the frequency 106.3 MHz in Bronx, NY. The agent observed a radio broadcast on 106.3 MHz and identified the source of the transmissions as an FM broadcasting antenna on the roof of 927 East 229th Street, Bronx, NY 10466. The agent took field strength measurements and determined that the signals being broadcast exceeded the limits for operation under Part 15 of the Commission’s Rules (“Rules”)² and

¹ 47 U.S.C. § 301.

² Section 15.239 of the Rules provides that non-licensed broadcasting in the 88-108 MHz band is permitted only if the field strength of the transmission does not exceed 250 micro volts per meter (“μV/m”) at three meters. 47 C.F.R. § 15.239. Measurements showed that the field strength of the station’s signal exceeded the permissible level for a non-licensed Part 15 transmitter.

therefore required a license. The agent searched Commission databases and found no evidence of a Commission authorization for operation on 106.3 MHz in Bronx, NY.

4. On the same day, after completing field strength measurements, Commission agents conducted an investigation on the roof of 927 East 229th Street, Bronx, NY 10466. The agents observed an FM broadcast antenna mounted to the chimney of the building that was connected to coaxial cable leading into a window of an upstairs apartment. The agents then knocked on the door to the upstairs apartment of the two-family house. When the man who answered the door was asked about the radio station, he stated that he was a visitor and that he knew nothing about the radio station. When agents asked him to turn off the transmitter, he did so. The man also advised the agents that the apartment's resident was not at home.

5. While speaking to the man at the upstairs apartment door, the agents were approached by the building owner, Garfield White. The agents advised White that an unauthorized radio station was being operated by someone in the upstairs apartment. White phoned the resident, Craig Watkins, and asked him to return to the residence. When Watkins arrived, the agents questioned him about the radio station and he admitted that there was radio equipment in his apartment, but he stated that no radio station existed. Watkins refused to allow the agents to inspect the equipment. The agents issued Watkins a Notice of Unlicensed Radio Operation for operating an unlicensed radio station on 106.3 MHz and for refusing to allow inspection of the radio equipment. After returning to the vehicle, the agents monitored 106.3 MHz and noted that the station was off the air.

6. On March 13, 2007, a Commission agent, using a mobile direction finding vehicle, monitored the frequency 106.3 MHz in Bronx, NY. The agent observed a radio broadcast on 106.3 MHz and identified the source of the transmissions as an FM broadcasting antenna on the roof of 927 East 229th Street, Bronx, NY 10466. A review of Commission databases revealed no evidence of a Commission authorization for operation on 106.3 MHz in Bronx, NY.

7. On March 14, 2007, a Commission agent, using a mobile direction finding vehicle, again monitored the frequency 106.3 MHz in Bronx, NY. The agent observed a radio broadcast on 106.3 MHz and identified the source of the transmissions as an FM broadcasting antenna on the roof of 927 East 229th Street, Bronx, NY 10466. The agent took field strength measurements and determined that the signals being broadcast exceeded the limits for operation under Part 15 of the Rules³ and therefore required a license. The agent searched Commission databases and found no evidence of a Commission authorization for operation on 106.3 MHz in Bronx, NY.

8. On July 27, 2007, Commission's New York Field Office issued a Notice of Apparent Liability for Forfeiture ("NAL") in the amount of \$17,000 to Watkins for apparently violating Section 301 of the Act by operating an unlicensed radio transmitter on the frequency 106.3 MHz in Bronx, NY and willfully violating Section 303(n) of the Act by refusing to allow an inspection of the radio station equipment.⁴ Watkins filed a response to the NAL on August 25, 2007. In his response, Watkins states that he resides at 927 East 229th Street, Bronx, NY with his wife, two children, and a brother-in-law. Watkins does not deny that there is radio station equipment in his apartment and he does not claim that the equipment is there without his permission. He states, however, that he does not know anything about the operation of a radio

³ See *supra* n. 2.

⁴ *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200732380012 (Enf. Bur., New York Office, released July 27, 2007).

station. He indicates that he questioned his brother-in-law and his brother-in-law's friends about the radio station equipment and the antenna on the roof, but he was not able to obtain any information from them. Watkins does not address in response his refusal to allow the agents to inspect the equipment.

III. DISCUSSION

9. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Act,⁵ Section 1.80 of the Rules,⁶ and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines* ("Forfeiture Policy Statement").⁷ In examining Watkins's response, Section 503(b) of the Act requires that the Commission take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁸

10. Section 301 of the Act states that no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States except under and in accordance with the Act and with a license granted under the provisions of the Act. Section 3(33) of the Act defines "communications by radio" as "the transmission by radio of writing, signs, signals, pictures, and sounds of all kinds, including all instrumentalities, facilities, apparatus, and services (among other things the receipt, forwarding, and delivery of communications) incidental to such transmission."⁹ Agents determined that, on March 10, 13, and 14, 2008, an unlicensed radio station was broadcasting on 106.3 MHz from the upstairs apartment at 927 East 229th Street, Bronx, NY 10466. Watkins was identified by the building owner as the resident of the upstairs apartment at 927 East 229th Street and in his response to the *NAL*, Watkins states that he resides at that address. Although Watkins does not admit to operating the radio station, Watkins confirms that there is radio station equipment in his apartment. Watkins does not state that such equipment was there without his permission. As a result, we find that Watkins provided services and facilities incidental to the transmission of communications by radio occurring on 106.3 MHz at 927 East 229th Street, Bronx, NY 10466. We have previously held that liability for unlicensed operation may be assigned to any individual taking part in the operation of the unlicensed station, regardless of who else may be responsible for the operation, because Section 301 of the Act provides that "no person shall use or operate" radio transmission equipment.¹⁰ Taken together, we find that Watkins's actions amounted to willful and repeated violations of Section 301 of the Act.

11. Section 303(n) of the Act states that the Commission has the authority to inspect all radio installations associated with stations required to be licensed in order to ascertain whether, in operation, they conform to the requirements of the rules and regulations of the Commission. On March 10, 2007,

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. § 1.80.

⁷ 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

⁸ 47 U.S.C. § 503(b)(2)(E).

⁹ 47 U.S.C. § 153(33).

¹⁰ 47 U.S.C. § 301; *See Joni K. Craig*, Forfeiture Order, 21 FCC Rcd 10793 (EB 2006); *See also Jean L. Senatus*, Forfeiture Order, 20 FCC Rcd 14418 (EB 2005). We note that, consistent with this precedent, even if Watkins's brother-in-law owns and operates the radio station, Watkins remains liable for the provision of services and facilities incidental to the radio operations.

Watkins refused to allow agents to inspect the station equipment located in his apartment. Watkins does not dispute this finding in response to the *NAL*. We therefore find that Watkins willfully violated Section 303(n) of the Act by failing to allow an inspection of the radio station equipment located in his apartment.

IV. ORDERING CLAUSES

12. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended (“Act”), and Sections 0.111, 0.311 and 1.80(f)(4) of the Commission’s Rules, Craig Watkins, **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of \$17,000 for willfully and repeatedly violating Sections 301 and 303(n) of the Act.¹¹

13. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.¹² Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN Number referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: ARINQUIRIES@fcc.gov with any questions regarding payment procedures.

14. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class Mail and Certified Mail Return Receipt Requested to Craig Watkins at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

G. Michael Moffitt
Acting Regional Director, Northeast Region
Enforcement Bureau

¹¹ 47 U.S.C. § 503(b), 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4); 47 U.S.C. § 301.

¹² 47 U.S.C. § 504(a).